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January 10, 2025

**VIA ECF**

Honorable Brian R. Martinotti, U.S.D.J.  
United States District Court  
District of New Jersey  
U.S. Post Office & Courthouse  
2 Federal Square  
Newark, NJ 07102

Re: *In re: Insulin Pricing Litigation*, No. 2:23-md-03080-BRM-RLS  
MDL No. 3080 | CMC Agenda and Bi-weekly Update

Dear Judge Martinotti:

We write on behalf of the parties to submit a proposed agenda for the Case Management Conference scheduled for Tuesday, January 14, 2025, and to provide a bi-weekly update. For the Court's consideration, we have also attached updated lists of pending cases and motions.

The parties were not able to reach agreement on appropriate agenda items for the CMC. Accordingly, this letter presents Plaintiffs' proposals, followed by Defendants' responses.

Defendants believe that none of the agenda items Plaintiffs list under "All Tracks" are at an impasse and thus would warrant the Court's attention at this time. Defendants believe that the parties should continue to "work together cooperatively throughout the discovery process," as the Court ordered. (CMO 11.) If and when these disputes require the Court's guidance, consistent with Local Civil Rule 37.1, Magistrate Judge Singh requires in her Civil Case Management Order that all discovery disputes and applications be submitted through a joint letter. Plaintiffs have not reached out to any Defendant about preparing such a joint letter on any of the topics they identify. Defendants believe it is improper and unproductive to insert unripe disputes into an agenda for this case-management conference. That said, Defendants look forward to continuing to work with Plaintiffs on negotiating appropriate parameters for fact discovery.

Plaintiffs believe that, notwithstanding Defendants' position that the items included by Plaintiffs are "unripe," the parties would benefit from discussion with the Court to hear the Court's views on the most appropriate process to facilitate the efficient resolution of these impending disputes.

**All Tracks**

- Custodians, search terms, and other discovery-related issues:** Defendants have served written responses and objections to Plaintiffs' First Set of Master Requests for Production

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of Documents and First Set of Master Interrogatories. Since that time, the parties have conferred one to two times per defendant on a number of issues relating to Defendants' responses—including custodians, search terms, search methodologies, hard-pull productions, data, and other issues.

**Plaintiffs' Position:** Plaintiffs believe many of the above topics are ripe for submission to the Court for its determination. The parties will be prepared to confer with the Court in this regard during the upcoming case management conference.

**Defendants' Position:** Defendants have conferred, and will continue to confer, with Plaintiffs regarding the above topics, and are willing to present any issues to Judge Singh in a manner consistent with the local rules if any Defendant reaches an impasse with Plaintiffs as to any issue.

## 2. Deposition transcripts:

**Plaintiffs' Position:** Plaintiffs have requested—informally and formally through Master Discovery—that Manufacturer Defendants produce deposition transcripts from the Consumer Class case.

**Manufacturer Defendants' Position:** Manufacturer Defendants believe production of deposition transcripts should be addressed in a deposition protocol. Plaintiffs sent a draft deposition protocol on December 17, 2024. Defendants are reviewing Plaintiffs' proposed draft and will be responding with a mark-up.

## SFP Track

### **Amendment of Self-Funded Payer Track complaints to name rebate aggregators:**

**Plaintiffs' Position:** Defendants informed the Self-Funded Payer (SFP) Track that they will not consent to the amendment of earlier-filed SFP Track complaints to name the PBM-Defendant-affiliated rebate aggregators as Defendants. The parties continue to confer regarding a process for amending these earlier-filed complaints.

**Defendants' Position:** As the SFP Plaintiffs recognize, the “parties continue to confer” about the appropriate process for certain Plaintiffs’ request to amend complaints in the SFP Track. Defendants maintain that those discussions should continue before presenting the matter to the Court.

## State Attorneys General Track

**Plaintiffs' Position:** California, Louisiana, and Indiana have fully or partially briefed remand motions that were filed before their actions were transferred to MDL 3080, and certain other plaintiffs have indicated that they wish to file remand. The remanding State Attorney General plaintiffs request that a discussion of a schedule for deciding remand occur at the next conference.

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**Defendants' Position:** Defendants' position is that remand briefing should proceed under an orderly process that is organized across all Plaintiffs that intend to move to remand. Defendants have asked Plaintiffs to provide a proposal on behalf of all Plaintiffs that intend to seek remand and continue to await Plaintiffs' response.

Thank you for your continuing attention to this matter.

Respectfully submitted,

/s Matthew F. Gately

Matthew F. Gately

*Liaison Counsel for*

*Class Action Track*

/s Joanne Cicala

Joanne Cicala

*Liaison Counsel for*

*The State Attorneys General Track*

/s David R. Buchanan

David R. Buchanan

*Liaison Counsel for*

*Self-Funded Payer Track*

/s John D. Tortorella

John D. Tortorella

cc: All counsel of record